

Senate Resolution 1142

By: Senators Chapman of the 3rd, Pearson of the 51st, Smith of the 52nd and Shafer of the 48th

A RESOLUTION

Proposing an amendment to the Constitution of Georgia so as to provide that private property may be taken through eminent domain only for public use, to provide that the benefits of economic development shall not constitute public use, and to provide that eminent domain shall not be used by local governments for purposes of community redevelopment; to provide for submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA

SECTION 1.

Article I, Section III, Paragraph I of the Constitution is amended by revising subparagraph (b) as follows:

"(b) With just compensation paid, private property may be taken only for public use. Unless the taking of private property is necessary for the possession, occupation, and enjoyment of land by the public at large, or by public agencies, common carriers, or public utilities, the taking is for a private use, and thus forbidden. In no event shall the public benefits of economic development, including but not limited to an increase in tax revenue, tax base, employment, or general economic health, constitute a public use determined by the General Assembly pursuant to this Paragraph. When private property is taken or damaged by the state or the counties or municipalities of the state for ~~public road or street purposes, or for public transportation purposes, or for any other public purposes as determined by the General Assembly,~~ public use, just and adequate compensation therefor need not be paid until the same has been finally fixed and determined as provided by law; but such just and adequate compensation shall then be paid in preference to all other obligations except bonded indebtedness."

SECTION 2.

Article IX, Section II, Paragraph VII of the Constitution is amended by revising subparagraph (a) as follows:

"(a) ~~Each condemnation of privately held property for redevelopment purposes must be approved by vote of the elected governing authority of the city within which the property is located, if any, or otherwise by the governing authority of the county within which the property is located. The power of eminent domain shall not be used for redevelopment purposes by any entity, except for public use, as defined by general law. The General Assembly may authorize any county, municipality, or housing authority to undertake and carry out community redevelopment which shall not include acquisition of property by eminent domain.~~"

SECTION 3.

Article IX, Section II of the Constitution is amended by revising Paragraph V as follows:

"Paragraph V. ***Eminent domain.*** The governing authority of each county and of each municipality may exercise the power of eminent domain for ~~any public purpose~~ public use subject to any limitations on the exercise of such power as may be provided by general law. Notwithstanding the provisions of any local amendment to the Constitution continued in effect pursuant to Article XI, Section I, Paragraph IV or any existing general law, each exercise of eminent domain by a nonelected housing or development authority shall be first approved by the elected governing authority of the county or municipality within which the property is located."

SECTION 4.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

"() YES Shall the Constitution of Georgia be amended to provide that private property may be taken through eminent domain only for public use, to () NO provide that the benefits of economic development shall not constitute public use, and to provide that eminent domain shall not be used by local governments for purposes of community redevelopment?"

All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."
All persons desiring to vote against ratifying the proposed amendment shall vote "No." If such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall become a part of the Constitution of this state.